



THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401-1991

JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW

Memorandum

To: Members of the AELR Committee
Standing Committee Chairs

From: Marie H. Razulis, AELR Committee Counsel
George H. Butler, Jr., AELR Committee Counsel
Crystal L. Lemieux, AELR Committee Counsel

Date: November 3, 2016

Re: **Synopses of Regulations received from 10/21/2016 through 11/2/2016**

Enclosed please find synopses of regulations received by the AELR Committee during the weeks noted above.

The Office of Policy Analysis prepares analyses of the regulations to determine if there are any problem areas, to ensure that the regulations comply with statutory authority and legislative intent, and to assess the fiscal impact of the regulations. If any regulation is of particular interest to you, please feel free to contact us at 410-946-5350 and we will supply you with a copy of the regulation along with the legal and fiscal analysis.

/cr

cc: Victoria L. Gruber
Alexandra M. Hughes

Health and Mental Hygiene, Department of

Proposed Regulation

DLS Control No. 16-259

Department of Health and Mental Hygiene:

Maryland Health Care Commission:

State Health Plan for Facilities and Services:

Specialized Health Care Services - Organ Transplant Services:

COMAR 10.24.15.01

According to the department, the purpose of this action is to repeal Regulation .01 under COMAR 10.24.15, the Organ Transplant Services Chapter of State Health Plan for Facilities and Services, and replace it with new Regulation .01 that accounts for changes in the health care system that have occurred since the Chapter was last updated. The Organ Transplant Services Chapter contains policies and standards that will guide the Certificate of Need review process for a general hospital that wishes to establish a transplant service for a new type of organ, regardless of whether or not the hospital has an existing transplant service for another type of organ.

Proposed Regulations

DLS Control No. 16-261

Department of Health and Mental Hygiene:

Housing:

Health and Medication Requirements for Youth Camps:

COMAR 10.16.07.03 and .14

According to the department, the purpose of this action is to establish requirements regarding the management and administration of medications for camp attendees. This proposed regulation .14 replaces the emergency regulation .14 that was approved by the AELR Committee and is effective from June 30, 2016 through December 26, 2016 (43:15 Md.R. 861 - 863 (July 22, 2016) The proposal updates the emergency text by:

- removing the requirement that an individual designated by the parent or guardian must have “written” authorization to pick up the camper and the medication;
- clarifying who may administer medications other than insulin and emergency medications;
- clarifying the names of the individuals who shall be included on the Medication Administration Form; and
- adding a requirement that youth camps keep for three years a record of successful training for each staff member who is trained to administer medication.

Proposed Regulation

DLS Control No. 16-262

Department of Health and Mental Hygiene:

Cancer Control:

Cigarette Restitution Fund Program: COMAR 10.14.06.02 through .06

According to the department, the purpose of this action is to:

- create a clear set of financial guidelines for local health departments and Statewide academic health centers to follow when determining an applicant's eligibility for cancer treatment services;
- remove a provision that local health departments or Statewide academic health centers may establish additional financial requirements for eligibility of cancer treatment services;
- simplify the description of individuals who may receive tobacco treatment products; and
- update the definition of "Statewide Academic Health Centers" to include organizations that meet the requirements of §13-1115 of the Health-General Article

Proposed Regulations

DLS Control No. 16-263

Department of Health and Mental Hygiene:

Medical Care Programs:

Community-Based Substance Use Disorder Services:

COMAR 10.09.80.01, .05, .06 and .08

According to the department, the purpose of this action is to change methadone reimbursement to better align service delivery with payment. The proposal includes a new bundled rate specifically for medication assisted treatment services and a separate reimbursement for level one counseling services when delivered by appropriately licensed professionals. This proposal adds the ability for opioid treatment programs to be reimbursed separately for services, including an induction service of the selected medication (methadone or buprenorphine), periodic medication management visits, and guest dosing services.

An additional purpose of this proposal is to update regulations to allow certified or licensed addictions programs (provider type 50s) who employ a DATA 2000 waiver physician to be reimbursed for periodic medication management visits and the cost of buprenorphine itself through their certified addictions program.

Proposed Regulations

DLS Control No. 16-264

Department of Health and Mental Hygiene:

Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech

Language Pathologists:

Licensure and Continuing Education: COMAR 10.41.03.08

Hearing Aid Dispensers: COMAR 10.41.08.02

Speech-Language Pathology Assistants: COMAR 10.41.11.02

According to the department, the purpose of this action is to:

- require, if the board receives an incomplete application for a license, the board to notify the applicant, within 30 days of receipt of an incomplete application, of the materials that are required;
- provide that an application is incomplete until all required materials, including fees and supporting documentation, are received by the board;
- authorize the board to administratively close an application if the required documentation is not received within one year of receipt of the incomplete application; and;
- authorize an applicant whose application is administratively closed to reapply and submit with the new application proof of compliance with the board regulations and statute.

Proposed Regulations

DLS Control No. 16-265

Department of Health and Mental Hygiene:

Diseases:

Communicable Diseases - Rabies: COMAR 10.06.02.02, .04 and .13

According to the department, the purpose of this action is to amend this chapter to implement selected aspects of the updated version of the Compendium of Animal Rabies Prevention and Control, 2016 published by the National Association of State Public Health Veterinarians. These changes include reducing the minimum time for strict quarantine of a domestic animal that has been exposed to a rabid animal from six to four months according to the updated Compendium of Animal Rabies Prevention and Control, and replacing the term “isolation” with “quarantine” to refer to the action taken when animals have been exposed to rabies, but have not developed clinical illness.

Proposed Regulations

DLS Control No. 16-267

Department of Health and Mental Hygiene:

Food:

Manufacture and Sale of Frozen Dairy Foods and Ices Manufactured for Sale in Maryland:

COMAR 10.15.05.01, .01 through 1, .13, .14, .20 through 1, .21, .24 through .26 through 2

Production, Processing, Transportation, Storage, and Distribution of Grade A Milk:

COMAR 10.15.06.01 through .07, .10, .12 through .20

Pilot Farmstead Cheese Program: COMAR 10.15.08.02 and .03

according to the department, the purpose of this action is to:

- update incorporation by reference for The Grade “A” Pasteurized Milk Ordinance to reflect the most recent version of this document from 2015;
- incorporate by reference two additional documents in COMAR 10.15.06: the 2016 Bulk Milk Hauler/Sampler Manual, and the FDA Food Safety Modernization Act;
- recodify Regulation .01 to be Regulation .01 through 1 under COMAR 10.15.05 to account for the addition of a new Incorporation by Reference regulation and update references throughout the chapter;
- update the number of days after processing milk or milk products can be offered for sale from 30 to 18 days;
- remove the word “Pilot” from the chapter title of COMAR 10.15.08; and;
- make other editorial, clarifying changes and re-codifications.

Proposed Regulation

DLS Control No. 16-269

Department of Health and Mental Hygiene:

Medical Care Programs:

Maryland Medicaid Managed Care Program: Non-Capitated Covered Services:

COMAR 10.09.70.02

According to the department, the purpose of this action is to update the ICD-10 diagnosis codes included in the behavioral health carve out. The amendment delineates which claims the Administrative Service Organization is responsible for paying and which claims the Managed Care

Organizations are responsible for paying. This will bring the regulations up to date with the latest CMS mandated updates.

Proposed Regulations

DLS Control No. 16-271

Department of Health and Mental Hygiene:

Cancer Control:

Cancer Registry: COMAR 10.14.01.01 through .02 through 1 and .07

According to the department, the purpose of this action is to update the International Classification of Diseases, Clinical Modification codes listed in the regulations from the ninth (ICD-9-CM) to the tenth (ICD-10-CM) revision, and to update the incorporation by reference of the Maryland Cancer Registry Data Use Manual and Procedures to the most recent version (July 2016).

Proposed Regulations

DLS Control No. 16-272

Department of Health and Mental Hygiene:

Medical Care Programs:

Vision Care Services: COMAR 10.09.14.07

Physical Therapy Services: COMAR 10.09.17.06

Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services:

COMAR 10.09.23.01 through 1 and .07

Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Audiology

Services: COMAR 10.09.51.07

According to the department, the purpose of this action is to incorporate by reference the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Provider Manual. This proposal also updates references to this document in other chapters.

Proposed Regulations

DLS Control No. 16-274

Department of Health and Mental Hygiene:

Board of Nursing:

Registered Nurse - Forensic Nurse Examiner:

COMAR 10.27.21.02 through .05 and .07

According to the department, the purpose of this action is to:

- add certain definitions;
- clarify the terms and requirements for the two-year renewal certification period;
- repeal obsolete terms;

- require new forensic nurse examiner (FNE) training programs to be approved by the Board prior to conducting the training and have a curriculum similar to existing registered nurse – forensic nurse examiner (RN-FNE) training programs;
- provide more flexibility in approving faculty by allowing the coordinators to evaluate the competency of prospective faculty;
- clarify that all changes in a training program have to be approved by the Board before the date of the first class; and
- make stylistic and corrective changes.

Proposed Regulations

DLS Control No. 16-276

Department of Health and Mental Hygiene:

Medical Care Programs:

Hospital Services: COMAR 10.09.06.01 through .18

Acute Hospitals: COMAR 10.09.92.01 through .14

Chronic Hospitals: COMAR 10.09.93.01 through .16

Special Pediatric Hospitals: COMAR 10.09.94.01 through .13

Special Psychiatric Hospitals: COMAR 10.09.95.01 through .13

According to the department, the purpose of this action is to replace in its entirety the Hospital Services chapter and create separate chapters for Acute, Chronic, Special Pediatric, and Special Psychiatric Hospitals, respectively.

Proposed Regulation

DLS Control No. 16-277

Department of Health and Mental Hygiene:

Medical Care Programs:

Maryland Medicaid Managed Care Program: Managed Care Organizations:

COMAR 10.09.65.19

According to the department, the purpose of this action is to repeal the calendar year 2015 HealthChoice MCO's rates, to implement the calendar year 2017 HealthChoice MCO's rates, and to clarify the interim rate adjustment methodology.

Human Resources, Department of

Proposed Regulations

DLS Control No. 16-273

Department of Human Resources:

Social Services Administration:

Youth Transitional Services: COMAR 07.02.10.01,.02,.04,.08,.09, and .16

According to the department, the purpose of this action is to define “successful adulthood” to conform with the provisions of the federal “Preventing Sex Trafficking and Strengthening Families Act” (PL 113-183).

Natural Resources, Department of

Proposed Regulation

DLS Control No. 16-280

Department of Natural Resources:

Fisheries Service:

General: COMAR 08.02.01.09

According to the department, the purpose of this action is to establish a dividing line on Barren Creek for tidal and nontidal waters.

Environment, Department of the

Proposed Regulation

DLS Control No. 16-278

Department of the Environment:

Water Pollution:

Underground Injection Control: COMAR 26.08.07.04

According to the department, the purpose of this action is to prohibit the construction of a Class II underground injection well in Maryland.

Proposed Regulation

DLS Control No. 16-279

Department of the Environment:

Regulation of Water Supply, Sewage Disposal, and Solid Waste:

Sewage Disposal and Certain Water Systems for Homes and Other Establishments in the Counties of Maryland Where a Public Sewage System is Not Available :

COMAR 26.04.02.09

According to the department, the purpose of this action is to amend the existing regulatory requirement regarding the size of the lettering on the rear of vehicles that haul septage. Currently, the requirement is for the lettering to be at least six inches. This amendment would change the size to at least four inches. This would make the size of the lettering consistent across all counties in the State.

Higher Education Commission, Maryland

Proposed Regulation

DLS Control No. 16-266

Maryland Higher Education Commission:

Fully Online Programs:

Registration: COMAR 13B.05.01..06

According to the commission, the purpose of this action is to delete a provision requiring the filing of certain reports that are no longer necessary.

Proposed Regulation

DLS Control No. 16-268

Maryland Higher Education Commission:

Academic Regulations:

Minimum Requirements for In-State Degree-Granting Institutions: COMAR 13B.02.02..08

According to the commission, the purpose of this action is to add provisions regarding a institution's loss of accreditation by an accrediting agency approved by the U.S. Department of Education.

Proposed Regulation

DLS Control No. 16-270

Maryland Higher Education Commission:

Fully Online Programs:

Registration: COMAR 13B.05.01.05

According to the commission, the purpose of this action is to add regulations addressing the loss of accreditation.

Proposed Regulations

DLS Control No. 16-275

Maryland Higher Education Commission:

Nonpublic Schools:

Minimum Requirements for Private Career Schools: COMAR 13B.01.01.03

Minimum Requirements for Private Career Schools: COMAR 13B.01.01.15

According to the commission, the purpose of this action is:

- to clarify the circumstances under which certain organizations are restricted from advertising themselves as schools, academies, conservatories, institutes, colleges, or universities and;
- to set forth standards under which the secretary may permit organizations that do not have certificates of approval from the commission to use the terms school, academy, conservatory, or institute.

Insurance Administration, Maryland

Proposed Regulations

DLS Control No. 16-260

Maryland Insurance Administration:

Insurers:

Antifraud Plans: COMAR 31.04.15.03

Assets, Liabilities, Reserves, and Investments of Insurers: **Annual Financial Reporting:**

COMAR 31.05.11.02

Property and Casualty Actuarial Opinion: COMAR 31.05.12.01

According to the administration, the purpose of this action is to amend COMAR 31.05.11.02 and 31.05.12.01 to remove the references to The Legal Mutual Liability Insurance Society of Maryland. Chapter 354 of 2014 repealed §§ 24-101 through 24-110 of the Insurance Article, which provided the legal authority for The Legal Mutual Liability Insurance Society of Maryland. As such, The Legal Mutual Liability Insurance Society of Maryland no longer exists as of January 1, 2016 and therefore all references to it are being removed from COMAR.

Additionally, COMAR 31.04.15.03, 31.05.11.02, and 31.05.12.01 are being amended to remove the references to The Injured Workers Insurance Fund. Chapter 570 of 2012 changed the nature of The Injured Workers Insurance Fund. Pursuant to § 10-102(c) of the Labor and Employment Article, The Injured Workers Insurance Fund may no longer issue new policies or otherwise engage in the business of insurance. Therefore, the references to The Injured Workers Insurance Fund are being removed in these regulations.